

## **Senate Bill No. 1046**

### **CHAPTER 636**

An act to amend Sections 811.2, 900.2, 913, 915, and 940.2 of, and to add Sections 905.9, 912.5, and 935.9 to, the Government Code, relating to government liability.

[Approved by Governor September 30, 2010. Filed with  
Secretary of State September 30, 2010.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 1046, Cogdill. Government tort claims: California State University.

Existing law bars a suit for money or damages against a public entity on a cause of action for which a claim is required to be presented, until a written claim therefor has been presented to the public entity and acted upon by the Victim Compensation and Government Claims Board, the governing body of a local public entity, or the Judicial Council, as applicable, or has been deemed to have been rejected, except as specified.

This bill would require, instead, in the case of a claim against the California State University for money or damages based upon an express contract or for an injury for which the Trustees of the California State University is liable, that the claim be presented to the Trustees of the California State University. The bill would require the trustees to act on the claim in accordance with the procedure that the trustees provide by rule. The bill would specify certain means of presentation and service of a claim against the California State University, and would require the Victim Compensation and Government Claims Board to immediately notify a claimant who mistakenly presents a claim against the California State University to the Victim Compensation and Government Claims Board, as specified. The bill would authorize the trustees to adjust and pay any claim arising out of the activities of the California State University, and would make other conforming changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 811.2 of the Government Code is amended to read:  
811.2. "Public entity" includes the state, the Regents of the University of California, the Trustees of the California State University and the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State.

SEC. 2. Section 900.2 of the Government Code is amended to read:  
900.2. "Board" means:

(a) In the case of a local public entity, the governing body of the local public entity.

(b) In the case of the state, except as provided by subdivisions (c) and (d), the Victim Compensation and Government Claims Board.

(c) In the case of a judicial branch entity or judge of one of those entities, the Judicial Council.

(d) In the case of the California State University, the Trustees of the California State University.

SEC. 3. Section 905.9 is added to the Government Code, to read:

905.9. All claims against the California State University for money or damages based upon an express contract or for an injury for which the Trustees of the California State University is liable shall be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part.

SEC. 4. Section 912.5 is added to the Government Code, to read:

912.5. (a) The Trustees of the California State University shall act on a claim against the California State University in accordance with the procedure that the Trustees of the California State University provides by rule.

(b) Nothing in this section authorizes the Trustees of the California State University to adopt any rule that is inconsistent with this part.

(c) If a claim for money or damages against the California State University is mistakenly presented to the Victim Compensation and Government Claims Board, the Victim Compensation and Government Claims Board shall immediately notify the claimant of the error and shall include information on proper filing of the claim.

SEC. 5. Section 913 of the Government Code is amended to read:

913. (a) Written notice of the action taken under Section 912.5, 912.6, 912.7, or 912.8 or the inaction that is deemed rejection under Section 912.4 shall be given in the manner prescribed by Section 915.4. The notice may be in substantially the following form:

“Notice is hereby given that the claim that you presented to the (insert title of board or officer) on (indicate date) was (indicate whether rejected, allowed, allowed in the amount of \$\_\_\_\_ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable) on (indicate date of action or rejection by operation of law).”

(b) If the claim is rejected, in whole or in part, the notice required by subdivision (a) shall include a warning in substantially the following form:

“WARNING

“Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

“You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.”

SEC. 6. Section 915 of the Government Code is amended to read:

915. (a) A claim, any amendment thereto, or an application to the public entity for leave to present a late claim shall be presented to a local public entity by either of the following means:

(1) Delivering it to the clerk, secretary or auditor thereof.

(2) Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office.

(b) Except as provided in subdivisions (c) and (d), a claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the state by either of the following means:

(1) Delivering it to an office of the Victim Compensation and Government Claims Board.

(2) Mailing it to the Victim Compensation and Government Claims Board at its principal office.

(c) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to a judicial branch entity in accordance with the following means:

(1) Delivering or mailing it to the court executive officer, if against a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of that court.

(2) Delivering or mailing it to the clerk/administrator of the court of appeals, if against a court of appeals or a judge of that court.

(3) Delivering or mailing it to the Clerk of the Supreme Court, if against the Supreme Court or a judge of that court.

(4) Delivering or mailing it to the Secretariat of the Judicial Council, if against the Judicial Council or the Administrative Office of the Courts.

(d) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the Trustees of the California State University by delivering or mailing it to the Office of Risk Management at the Office of the Chancellor of the California State University.

(e) A claim, amendment or application shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if, within the time prescribed for presentation thereof, any of the following apply:

(1) It is actually received by the clerk, secretary, auditor or board of the local public entity.

(2) It is actually received at an office of the Victim Compensation and Government Claims Board.

(3) If against the California State University, it is actually received by the Trustees of the California State University.

(4) If against a judicial branch entity or judge, it is actually received by the court executive officer, court clerk/administrator, court clerk, or secretariat of the judicial branch entity.

(f) A claim, amendment or application shall be deemed to have been presented in compliance with this section to a public agency as defined in Section 53050 if it is delivered or mailed within the time prescribed for presentation thereof in conformity with the information contained in the statement in the Roster of Public Agencies pertaining to that public agency

which is on file at the time the claim, amendment or application is delivered or mailed. As used in this subdivision, “statement in the Roster of Public Agencies” means the statement or amended statement in the Roster of Public Agencies in the office of the Secretary of State or in the office of the county clerk of any county in which the statement or amended statement is on file.

SEC. 7. Section 935.9 is added to the Government Code, to read:

935.9. The Trustees of the California State University may adjust and pay any claim arising out of the activities of the California State University. The Trustees of the California State University may, by rule, authorize the Office of Risk Management at the Chancellor’s Office of the California State University to perform the functions of the Trustees of the California State University under this section.

SEC. 8. Section 940.2 of the Government Code is amended to read:

940.2. “Board” means:

(a) In the case of a local public entity, the governing body of the local public entity.

(b) In the case of the state, except as provided by subdivisions (c) and (d), the Victim Compensation and Government Claims Board.

(c) In the case of a judicial branch entity or a judge thereof, the Judicial Council.

(d) In the case of the California State University, the Trustees of the California State University.